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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF WASHINGTON

9 MARY LEANDRA CLUCK,

10 Petitioner,

11 vs.

12 ELDON VAIL and MICHAEL
13 HUMPHREY,

14 Respondents.

NO. CV-09-5093-JPH

REVISED ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DENYING MOTION FOR
APPOINTMENT OF COUNSEL AND
REQUEST FOR DISCOVERY

15 Due to clerical error, Ms. Cluck's timely submitted "Objections" (Ct. Rec. 26),
16 received on December 10, 2009, were not properly docketed¹. The court has now
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19 ¹The court notes Ms. Cluck has been inundating the court with filings which are
20 difficult to decipher. Ms. Cluck does not clearly and concisely identify her intent or
21 requests. Petitioner has submitted copies of envelopes sent from this court, as well as
22 copies of past Orders. Because Orders are already part of the court record it is
23 unnecessary for Ms. Cluck to re-submit them. Furthermore, because the court already
24 granted Petitioner leave to proceed *in forma pauperis*, there is no reason for her to
25 submit additional applications.

26 Limited judicial resources are being expended to scan and docket submissions
27 which have no apparent relevance to Ms. Cluck's habeas action. This has caused delays
28 ORDER-- 1

1 considered those objections, and for the reasons set forth by Magistrate Judge Hutton, **IT**
 2 **IS ORDERED** the Report and Recommendation filed November 25, 2009,
 3 recommending Ms. Cluck's *pro se* motion for appointment of counsel (Ct. Rec. 4) and
 4 her request for discovery (Ct. Rec. 5) be denied, is **ADOPTED in its entirety**. The
 5 Motion and Request (Ct. Recs. 4 and 5) are **DENIED**.

6 Petitioners argument the Magistrate Judge lacks authority to either grant *in forma*
 7 *pauperis* status or to instruct her to amend is without merit. Petitioner's asserted
 8 entitlement to appointed counsel based on her deteriorating health issues under the
 9 Americans With Disabilities Act is also unavailing. To the extent Petitioner wishes to
 10 challenge the conditions of confinement she should do so in a separate complaint under
 11 42 U.S.C. § 1983. A habeas action is not the appropriate forum in which to do so.

12 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
 13 Order and forward a copy to Petitioner. Petitioner shall submit her amended habeas
 14 petition on or before January 25, 2010.

15 **DATED** this 21st day of December 2009.

16
 17 *s/Lonny R. Sukko*

18 _____
 19 LONNY R. SUKO
 CHIEF UNITED STATES DISTRICT JUDGE

20 in properly docketing relevant documents such as her "objection" to the Report and
 21 Recommendation. Ms. Cluck should clearly label all documents she submits to the
 22 court and provide instructions regarding their purpose.

23 Again, if Ms. Cluck wishes to change any of the information in her Petition, she
 24 must file a First Amended Petition which functions as a complete substitute for, and not
 25 a mere supplement to, the present Petition. The court cannot grant Ms. Cluck's requests
 26 to "replace" pages of her petition. Ms. Cluck's submission of a single page of a petition
 27 does not comply with the directive of the court to submit a First Amended Petition.
 28 ORDER-- 2